



September 25, 2000

Ms. Lamis A. Safa
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2000-3693

Dear Ms. Safa:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 140895.

The City of Houston (the "city") received a request for all information regarding the requestor's criminal background. You claim that the requested information is excepted from disclosure under sections 552.108(a)(1) and (2) and 552.130(a) of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Under section 552.108(a) of the Government Code, information is excepted from disclosure if it is "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime" and:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or
- (3) it is information that:
 - (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or
 - (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

You claim that one case for which information has been requested remains open but inactive. Accordingly, we find that release of this requested information would interfere with the detection, investigation, or prosecution of crime, *see Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases), and we conclude that the city may withhold the information under section 552.108(a)(1), subject to section 552.108(c).

Likewise, you claim that eight other cases for which information was requested did not result in conviction or deferred adjudication because the cases were cleared either by investigation or lack of prosecution, or because the suspect was not arrested or charged in the case. Accordingly, we find the city need not disclose the contents of these eight reports to the requestor, beyond the information required to be disclosed under section 552.108(c). *See* Gov't Code § 552.108(a)(2), (c).

Section 552.108(c) states that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure. *Id.* § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 177. Thus, with the exception of the basic front page offense report information, you may withhold the requested information from disclosure based on section 552.108(a)(1) and (2).¹

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

¹ Based on this finding, we need not reach the issue of whether some of the same information protected under section 552.108(a)(1) and (2) is also excepted from disclosure under section 552.130(a).

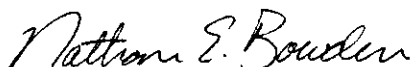
2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Nathan E. Bowden
Assistant Attorney General
Open Records Division

NEB/cwt

Ref: ID# 140895

Encl. Submitted documents

cc: Mr. Joseph Flucas
1109 Niagara Street
Houston, Texas 77051
(w/o enclosures)